

Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. See 86 Ill. Adm. Code 130.220. (This is a GIL.)

October 13, 2005

Dear Xxxxx:

This letter is in response to your letter received May 9, 2005, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I recently called the Illinois Department of Revenue to get a determination on the licensing requirements for an unusual product that the company I work for offers. The individual I spoke with suggested I send you a letter describing our product and how it works in hopes that we can get a determination on the licensing requirements. We basically have an electronic shopping cart that we rent to a customer for one dollar. The 'kart' plays music and stories for the child while the parent shops in the grocery store. Some states may consider it an amusement kiddy ride while others just consider it a shopping cart or no different than the carts you might rent at an airport to help with your luggage. We are currently operating in Texas where we were not required to obtain an amusement license because the state said that it 'provides a service' and is tailored to 'small children' each of which exempts the company from an amusement license in Texas. However, we realize interpretations vary from state to state. Therefore, I have attached pictures of our 'Kid Karts' hoping that it helps you make a determination as to our licensing requirements in the State of Illinois.

Here is a little info on how it works:

- Customer has to pay \$1 to use the 'kart.'
- The dollar is placed in the bill validator in the 'pay-stand' (not the kart).

- The stand then communicates with the 'kart' allowing the brake to release and the 'kart' to begin playing music and stories for the child who climbs inside the 'kart.'
- As you can see in the picture the 'kart' is also a full size shopping cart which the parents can use for as long as they care to. The music will play up to two hours.

It would be greatly appreciated if you can take some time to review the pictures and the process and inform us on our licensing requirements within the state.

DEPARTMENT'S RESPONSE:

To be taxable, the device must be coin-operated, and it must be an amusement device. The Department's regulations define "amusement devise" as a device, which is played primarily for amusement or entertainment rather than for the purchase of some specific commodity or service. See 86 Ill. Adm. Code 460.105(a)(3).

It is apparent that the primary purpose is the renting of a shopping cart and therefore the electronic shopping cart that incidentally plays music for kids does not fall within the license requirements of a coin operated amusement devise.

As a lessor of tangible personal property in Illinois, you would incur Use Tax liability on the cost price of the electronic shopping carts. Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220. As end users of tangible personal property located in Illinois, lessors owe Use Tax on their cost price of such property. No tax is imposed on rental receipts by the State of Illinois. Consequently, lessees incur no tax liability.

The lessors would either pay their suppliers, if their suppliers are registered to collect Use Tax, or would self-assess and remit the tax to the Department. If the lessors already paid taxes in another state with respect to the acquisition of the tangible personal property, they can claim a credit to the extent of the amount of such tax properly due and paid in such other state. See 86 Ill. Adm. Code 150.310(a)(3).

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk